

Court of Appeals, State of Michigan

ORDER

People of MI v Anthernette Thomas

Docket No. 290905

LC No. 08-017153

Michael J. Talbot
Presiding Judge

Kurtis T. Wilder

Brian K. Zahra
Judges

The motion for immediate consideration is GRANTED.

The Court orders, pursuant to MCR 7.205(D)(2), that the circuit court's February 23, 2009 order granting defendant's motion to quash is REVERSED to the extent it dismissed the assault with intent to commit murder charge. A circuit court's decision to grant or deny a motion to quash charges is reviewed de novo to determine if the district court abused its discretion in binding over a defendant for trial. *People v Libbett*, 251 Mich App 353, 357; 650 NW2d 407 (2002). The elements of assault with intent to murder are: (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v Plummer*, 229 Mich App 293, 305; 581 NW2d 753 (1998). The intent to kill can be inferred from any facts in evidence. *People v Taylor*, 422 Mich 554, 568; 375 NW2d 1 (1985). In this case, there was evidence that defendant had an angry and vengeful disposition of mind, that she left the scene specifically to obtain a weapon that was naturally adapted to produce death, and that when she returned, she used that weapon to fire multiple gunshots into an occupied apartment. This evidence is sufficient to cause an individual marked by discreetness and caution to have a reasonable belief that, in firing the gunshots, defendant intended to kill. Under the doctrine of transferred intent, this intent was sufficient even if it was not directed at the ultimate victim of the assault. See *People v Lawton*, 196 Mich App 341; 492 NW2d 810 (1992). Based on the evidence presented at the preliminary examination, the district court selected a reasonable and principled outcome in finding probable cause to believe that defendant committed the crime of assault with intent to murder and binding defendant over to circuit court on that charge, and the circuit court erred in ruling otherwise.

This case is REMANDED to the circuit court for further proceedings consistent with this order. We do not retain jurisdiction. This order shall have immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 23 2009

Date

Sandra Schultz Mengel

Chief Clerk